

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: A. Aldykiewicz Jr. et al.

Serial No: 10/736,305

Filed: December 15, 2003

For: Anticorrosion Separator For
Wood Deck Fasteners

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Examiner: Y. Horton

Group Art Unit: 3635

Confirm. No.: 5459

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed simultaneously with the Notice of Appeal. The review is requested based on the reasons presented on the following pages.

Respectfully submitted,

/Stephan P. Williams/

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Statement of Reasons in Support of Pre-Appeal Brief Review

The Claimed Invention

The present invention is directed to a method of preventing or minimizing corrosion of metal devices, such as metal joist hangers, used to fasten pretreated wood by preventing contact between the metal device and the pretreated wood. The method places a membrane barrier over the wood surface that would otherwise contact the metal device, wherein the membrane barrier comprises a carrier support layer and a pressure-sensitive waterproofing adhesive layer.

The Rejection

Claims 8-10 and 14 stand rejected under 35 USC §103(a) as unpatentable over Weir (US 5,148,644) in view of Thompson (US 6,295,781).

Errors in the Asserted Rejections

It appears that the Examiner's rejection is based on a generalization of the teachings of the references, while at the same time ignoring important differences between the claimed invention and the actual disclosure of the references.

Weir, the primary reference, does not show or describe any metal device (other than nails) and, thus, cannot possibly suggest interposing anything between wood and metal. Since nails are fastened into the wood, there is contact between the wood (whether treated or not treated) and the nail, even if there is something between the nail head and the wood surface.

While Thompson is cited to show that metal joist hangers are known for use in constructing decking (a fact already admitted by applicants), there is nothing in either reference that would suggest that the Weir covering strips can or should be interposed between the wood and the metal joist hanger, when such hangers are used. In fact, it is possible that the Weir covering strip might interfere with the fit between the joist and hanger. Moreover, if one employed a metal hanger as shown in Fig. 1 of Thompson, such a hanger would contact the wood surface of the joists even if

the top surfaces and end surfaces of the joists had a Weir covering strip because the hangers are nailed into side surfaces of the joists which would not have the Weir covering strips. Thus, the combination of these two teachings cannot lead one to the present invention.

In addition, there is nothing in Weir that suggests that the fungicidal strip 19 can or should include a pressure sensitive adhesive or that it is a waterproofing layer. Weir describes this material as felt or fibrous material that retains the fungicide. There is simply no suggestion that such a material has waterproofing characteristics or that it includes a pressure sensitive adhesive material. Although Weir suggests that his felt or fibrous material should be somewhat compressible, this hardly suggests the use of a pressure sensitive adhesive over all the various other kinds of material one might try. In any event, where the wood is pretreated with fungicide, as in the present invention, Weir recognizes that his fungicidal strip would NOT be used. See col. 4, lines 26-30. It would make no sense to employ a fungicidal strip over pretreated wood.

In view of the above arguments, applicants believe that the Examiner's rejections should be withdrawn.